

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OFF-WHITE LLC,

Plaintiff,

-against-

ALICARL SERISE STORE, ANGSHE STORE, BE YEAH STORE, BEAUTIFUL CUSTOMER STORE, DONGGUAN GEMFITS TECHNOLOGY CO., LTD., DONGGUAN NUOMANSHI CLOTHING CO., LTD., FASHIONABLE ACCESSORIES STORE, FJXMVIP STORE, FLOVAR STORE, GEOMETRIC SPACING STORE, GUANGZHOU BIKSON ELECTRONIC TECHNOLOGY CO., LTD., GUANGZHOU MISHENG TECHNOLOGY CO., LTD., GUANGZHOU TOMAS CRAFTS CO., LIMITED, GUANGZHOU YJ TECHNOLOGY CO., LTD., HANGZHOU MEIKALAI TECHNOLOGY CO., LTD., HYUCENY FF BAG666 STORE, LBJSOX STORE, LLL89898989 STORE, OLIVIA'S COLORFUL STORE, OUTSTANDINGOFFICIAL STORE, SHANGZHIJIA STORE, SHENZHEN AISHANG SUNSHINE TRADING CO., LTD., SHENZHEN AST ELECTRONIC TECHNOLOGY CO., LTD., SHENZHEN BURZION TECHNOLOGY CO., LTD., SHENZHEN CHENGZHOU TECHNOLOGY LTD., SHENZHEN SHANEN ELECTRONIC COMMERCE CO., LTD., SHENZHEN YETESI TECHNOLOGY CO., LTD., SHENZHEN YUEYANGMENG E-COMMERCE CO., LTD., SHOP5095137 STORE, SHOP5411028 STORE, SHOP678 STORE, SHOP910326107 STORE, SHOP910327347 STORE, SHOP910347415 STORE, SHOP910931048 STORE, SHOP911112184 STORE, SHOP911188155 STORE, SHOP911305008 STORE, SHOP911599337 STORE, SHOP911733072

21cv03630 (PAE) (DF)

**SCHEDULING ORDER
FOR A DAMAGES INQUEST**

STORE, WHAT A SURPRISE STORE,
WOWOANIMAL STORE, XIAMEN
LINJIASHENG INTERNATIONAL TRADE
CO., LTD., XI'AN DEALSPEEDS
TECHNOLOGY LIMITED, XU'S STORE,
YIWU DONGYE E-BUSINESS LIMITED
and YIWU YIYU TONGTIAN TRADE CO.
AND LTD.,

Defendants.

DEBRA FREEMAN, United States Magistrate Judge:

On June 26, 2021, plaintiff Off-White LLC (“Plaintiff”) moved for a default judgment against the Defendants named in this case (*see* Dkt. 24), and, on June 22, 2021, the Honorable Paul A. Engelmayer, U.S.D.J. issued an Order To Show Cause, directing Defendants to show cause why a default judgment should not be entered against them (*see* Dkt. 28). Subsequently, however, Plaintiff filed Notices of Voluntary Dismissal against certain of the Defendants originally named in this case, specifically defendants Shenzhen Haichengfeng Technology Co., Ltd. (*see* Dkts. 31, 32 (approving dismissal)), Dongguan City Shanli Weaving Co., Ltd., Dongguan Yihong Webbing Co., Ltd., and Shenzhen Weijiaxing Electronics Co., Ltd. (*see* Dkts. 33, 34 (approving dismissal)), and Shenzhen Asher Technology Co., Ltd. (*see* Dkts. 35, 36 (approving dismissal)). Then, on November 8, 2021, Judge Engelmayer referred this case to this Court for the purpose of conducting a damages inquest (*see* Dkt. 37 (Amended Order of Reference)), which this Court understands to mean an inquest as to the damages that should be awarded to Plaintiff upon the default of the *remaining* Defendants, specifically AliCarl Serise Store, Angshe Store, Be Yeah Store, beautiful customer Store, Dongguan Gemfits Technology Co., Ltd., Dongguan Nuomanshi Clothing Co., Ltd., Fashionable accessories Store, FJXMVIP Store, FLOVAR Store, Geometric spacing Store, Guangzhou Bikson Electronic Technology Co., Ltd., Guangzhou Misheng Technology Co., Ltd., Guangzhou Tomas Crafts Co.,

Limited, Guangzhou YJ Technology Co., Ltd., Hangzhou Meikalai Technology Co., Ltd., HYUCENY FF bag666 Store, LBJSOX Store, LLL89898989 Store, Olivia's colorful Store, Outstandingofficial Store, Shangzhijia Store, Shenzhen Aishang Sunshine Trading Co., Ltd., Shenzhen Ast Electronic Technology Co., Ltd., Shenzhen Burzion Technology Co., Ltd., Shenzhen Chengzhou Technology Ltd., Shenzhen Shanen Electronic Commerce Co., Ltd., Shenzhen Yetesi Technology Co., Ltd., Shenzhen Yueyangmeng E-Commerce Co., Ltd., Shop5095137 Store, Shop5411028 Store, shop678 Store, Shop910326107 Store, Shop910327347 Store, Shop910347415 Store, Shop910931048 Store, Shop911112184 Store, Shop911188155 Store, Shop911305008 Store, Shop911599337 Store, Shop911733072 Store, WHAT A SURPRISE Store, wowoanimal Store, Xiamen Linjiasheng International Trade Co., Ltd., Xi'an Dealspeeds Technology Limited, Xu's Store, Yiwu Dongye E-Business Limited and Yiwu Yiyu Tongtian Trade Co. and Ltd. (collectively, the "Defaulting Defendants").

Accordingly, it is hereby ORDERED that:

1. No later than January 5, 2022, Plaintiff shall serve on the Defaulting Defendants and file Proposed Findings of Fact and Conclusions of Law concerning damages ("Proposed Findings"). Plaintiff shall include, with such service, a copy of this Order.
2. Plaintiff's Proposed Findings should specifically tie the proposed damages figures to the legal claims on which liability has now been established; should demonstrate how Plaintiff has arrived at the proposed damages figures; and should be supported by a sworn affidavit, or a declaration under penalty of perjury, that attaches as exhibits and contains an explanation of any documentary evidence that helps establish the proposed damages.
3. Further, to the extent that Plaintiff seeks attorneys' fees and litigation costs, Plaintiff's submissions should not only set out the legal basis for such an award, but should also:

a. provide copies of Plaintiff's attorneys' contemporaneous time records, so that this Court may assess whether the requested fees are reasonable, *see New York Ass'n for Retarded Children, Inc. v. Carey*, 711 F.2d 1136, 1148 (2d Cir. 1983);

b. address the reasonableness of the hourly rates of the attorneys working on the matter and their support staff, *see Arbor Hill Concerned Citizens Neighborhood Ass'n v. Cnty. of Albany*, 522 F.3d 182, 190 (2d Cir. 2008); and

c. provide copies of invoices or other documentation substantiating the amount of costs that have been incurred.

4. The Defaulting Defendants shall submit a response, if any, to Plaintiff's submission no later than February 4, 2022. The Defaulting Defendants are cautioned, however, that a corporate entity may not appear in this Court without an attorney and therefore any response that any such entity seeks to file, including any request for a hearing on damages, *must be made through counsel* for that response to be considered by the Court.

5. IF THE DEFAULTING DEFENDANTS FAIL TO RESPOND TO PLAINTIFF'S SUBMISSIONS BY February 4, 2022, THEN THIS COURT WILL PROCEED TO ISSUE A REPORT AND RECOMMENDATION CONCERNING DAMAGES ON THE BASIS OF PLAINTIFF'S WRITTEN SUBMISSION ALONE. FURTHER, THIS COURT WILL NOT HOLD A HEARING ON DAMAGES, UNLESS THE DEFAULTING DEFENDANTS REQUEST A HEARING, IN WRITING, BY FEBRUARY 4, 2022. *See Action S.A. v. Marc Rich & Co.*, 951 F.2d 504, 508 (2d Cir. 1991) (Fed. R. Civ. P. 55(b)(2) "allows but does not require . . . a hearing"); *Fustok v. ContiCommodity Servs. Inc.*, 873 F.2d 38, 40 (2d Cir.

1989) (“[I]t [is] not necessary for the District Court to hold a hearing, as long as it ensured that there was a basis for the damages specified in a default judgment.”).

6. As noted in the applicable Order of Reference, the parties should also be aware that Judge Engelmayer has previously approved a report and recommendation written in what appears to be a substantially similar case. (See Dkt. 36; *see also Off-White LLC v. ALI Jr. et al.*, No. 19cv1775 (PAE) (SN), Dkts. 59-60.)

Dated: New York, New York
December 6, 2021

SO ORDERED



DEBRA FREEMAN
United States District Judge

Copies to:

Plaintiff's counsel (via ECF)